

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

No. 15 Cr. 607 (JPC)

JAMES CAPERS,

Defendant.

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**DEFENDANT'S PRO SE MOTION FOR ORDER DIRECTING HIS
RETENTION AT MDC BROOKLYN FOR AT LEAST SIXTY DAYS,
IN ACCORDANCE WITH THE BROUGHT PROVISION OF RULE
38 (b)(2) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE**

NOW COMES Defendant, JAMES CAPERS, and respectfully moves this Court for an order directing the Federal Bureau of Prisons to retain Defendant at the Metropolitan Detention Center so as to afford him a meaningful opportunity to assist counsel with the preparation of the appeal. In support of this motion, Defendant would show the Court as follows:

1. Defendant was previously convicted after a jury trial, and sentenced to a lengthy term of imprisonment from which he appealed. On January 12, 2023, the Court resentenced Defendant to the same term of Imprisonment and supervised release, without regard to intervening changes in the law which mandated a shorter sentence.
2. On January 25, 2023, a timely notice of appeal was filed. However, Defendant has not yet been afforded a meaningful opportunity to discuss the issues to be presented on appeal or to present to counsel meritorious issues for the appeal

that counsel may be unaware of. To afford Defendant such a meaningful and fair opportunity, Defendant seeks an order directing that he be retained at MDC BROOKLYN for a period of at least sixty days. It's also noteworthy that resentencing in this matter is imminent, and Defendant's retention at MDC BROOKLYN for a reasonable period of time is certain to preserve governmental resources.

3. Rule 38(b)(2) of the Federal Rules of Criminal Procedure provides the district court with authority to direct that a prisoner be retained at a particular facility for a reasonable period of time to assist his attorney with his appeal from a criminal judgment. Such an order is both appropriate and warranted under the circumstance described here.

WHEREFORE, Defendant prays that an order granting this request will issue forthwith, in the interest of Justice.

Dated: Brooklyn, New York
March 24, 2023


Respectfully submitted,
James Capers

JAMES CAPERS
REGISTER NO. 66680-054
MDC BROOKLYN
P.O. BOX 329002
BROOKLYN, NEW YORK 11232

cc: U.S. Attorney Office (SDNY)

Pursuant to Mr. Capers's request, the Court uses the authority granted by Federal Rule of Criminal Procedure 38(b) to recommend that he be confined to the Metropolitan Detention Center in Brooklyn for a period of at least sixty days to aid his attorney in preparing his appeal. Mr. Capers may make further such requests if additional time is required.

SO ORDERED
Date: March 28, 2023
New York, New York


JOHN P. CRONAN
United States District Judge